

**TOWN OF SHREWSBURY
ANNUAL TOWN MEETING
(ADJOURNED)**

MAY 23, 2007

The meeting was called to order at 7:07 P.M. at the Oak Middle School auditorium when Moderator Kevin T. Byrne announced a quorum of town meeting members in attendance. The official checklist showed 183, including the moderator.

The moderator led the assembly in the pledge of allegiance to the flag.

Newly elected town meeting members who had not taken the oath on May 21, were sworn to the faithful performance of their duties.

An asterisk indicates articles recommended by the Finance Committee.

Article 8: Supplement to Budget

DEFEATED UNANIMOUSLY a substitute motion to raise the sum of \$1.00 to supplement said sums raised under Article 7 of this warrant.

Finance Committee recommends defeat of article
Board of Selectmen recommends defeat of article

Article 9: Stabilization Fund

DEFEATED a substitute motion to raise the sum of \$1.00 to create a Stabilization Fund pursuant to General Laws Chapter 40, Section 5B to be used to fund future salary, operating and capital costs of the Town departments.

***Article 10: Omnibus Capital Budget**

VOTED a motion to end debate and vote a motion to amend the substitute printed motion.

DEFEATED a motion to amend by striking the sum of \$1,078,000.00 in line one of the substitute motion and inserting the sum of \$913,000 in place thereof; under Parks Department, deleting the sum of \$100,000 to replace Dean Park Softball Lights; deleting the sum of \$65,000 for Dean Park Parking Lot Paving; deleting the sum of 1,218,000 appearing at end of motion and inserting the sum of \$1,053,000.00 in place thereof.

The vote being immediately questioned by seven town meeting members, it was

DEFEATED BY STANDING VOTE, YES, 29; NO, 143 a motion to amend by striking the sum of \$1,078,000.00 in line one of the substitute motion and inserting the sum of \$913,000 in place thereof; under Parks Department, deleting the sum of \$100,000 to replace Dean Park Softball Lights; deleting the sum of \$65,000 for Dean Park Parking Lot Paving;

deleting the sum of 1,218,000 appearing at end of motion and inserting the sum of \$1,053,000.00 in place thereof.

VOTED a substitute motion to raise the sum of \$1,078,000.00 and transfer the sum of \$140,000.00 from the Sewer Surplus Account to fund the costs associated with the adoption of an Omnibus Capital Budget for the fiscal period beginning July 1, 2007 as follows:

Department	Item/Project	Amount	Funding Source	Explanation/Comment
Fire Department	Radio Tower Project Masonic Property	\$13,000	Taxation	Funding to move equipment off of water tanks.
Highway Department	Improvements to public ways	150,000	Taxation	Annual appropriation for general street reconstruction. Present balance on account is \$287,927.
Police Department	Replace Marked Cruiser	28,000	Taxation	Replaces marked 2004 Ford Crown Victoria cruiser
	Replace Marked Cruiser	28,000	Taxation	Replaces marked 2004 Ford Crown Victoria cruiser
	Replace Marked Cruiser	28,000	Taxation	Replaces marked 2004 Ford Crown Victoria cruiser
	Replace Unmarked Cruiser	28,000	Taxation	Replaces 1999 Ford Taurus Unmarked cruiser
	Replace Investigative Video Equipment	10,000	Taxation	Upgrade investigative video equipment
	Dispatch Radio Upgrade	55,000	Taxation	Upgrade radio consoles and base radios purchased in 1980's to accommodate E-911 upgraded system and other enhancements
Public Buildings	Power wash & Repoint Beal School	76,000	Taxation	Some exterior mortar joints have deteriorated and need repair
	Replace Paton School Floor Covering	80,000	Taxation	Replacement in all classrooms From tile to 2/3rds carpet; 1/3 rd tile. This is a two year project
	Police Station Improvements	50,000	Taxation	Improvements to existing station.
Parks Department	Replace Dean Park Softball Lights	100,000	Taxation	Existing lights approximately 30 years old
	Dean Park Parking Lot Paving	65,000	Taxation	Begin process of repaving in Dean Park
Sewer	I & I Removal	100,000	Sewer	Ongoing project to find and

Department	Project		Use	eliminate infiltration and inflow into the system
	Replace 1 Ton Pickup/Utility	40,000	Sewer Use	Replace 1999 Pickup with Utility Body
Water Department	Replace 1 Ton Pickup/Utility	42,000	Taxation	Replacement of 1999 Pickup with Utility Body
	Inspection. Repair and Painting – Browning Road Tank	325,000	Taxation	Exterior last painted in mid 1990's; interior to also be painted this time

Finance Committee 6 in favor, 1 opposed

***Article 11: Sale of Cemetery Lots**

VOTED a motion to transfer the sum of \$18,000 from the Sale of Cemetery Lots Account to the Cemetery department for the care, improvement and embellishment or enlargement of the Cemetery.

Article 12: Departmental Bills of Prior Years

DEFEATED a substitute motion to raise the sum of \$1.00 to pay departmental bills contracted in prior years.

Finance Committee recommends defeat of Article 12

***Article 13: Laying Out and Making Public
Boston Hill Circle, Clark Way, Park Grove Lane**

VOTED UNANIMOUSLY a motion to accept the report of the Board of Selectmen in laying out and making public the following streets, in whole or in part, as shown on plans filed in the office of the Town Clerk.

STREETS

SUBDIVISION

- | | |
|-----------------------|----------------------|
| 1. Boston Hill Circle | Boston Hill Estates |
| 2. Clark Way | Cosmopolitan Estates |
| 3. Park Grove Lane | Park Grove Farm |

Planning Board report unanimously recommending acceptance was read by the moderator

***Article 14: Accept Parcel of Land
Noble Oak Estates Subdivision**

VOTED BY A DECLARED 2/3rds MAJORITY a motion to accept certain parcels of land located in the Town of Shrewsbury, County of Worcester, Commonwealth of

Massachusetts, more commonly known as Parcel D and Parcel E in Noble Oak Estates
Subdivision described as follows:

Parcel D

A certain parcel of land situated in the Town of Shrewsbury, Worcester County, Massachusetts, being shown as "Parcel D," on a plan of land entitled "Owner: Town of Shrewsbury, Street Acceptance Plan of Jane Street in Shrewsbury, MA.; Scale: 1"=40'; Dated July 25, 2005; prepared by GCG Associates, Inc., Wilmington, MA.; Plan No. 2 of 2," and recorded with the Worcester District Registry of Deeds in Plan Book _____, Plan _____ and being more particularly described as follows:

BEGINNING on the northwesterly portion of the cul-de-sac of the Jane Street right of way at a point;

THENCE N65°51'51"W, 64.75 feet to a point;

THENCE S25°17'23"W, 12.00 feet to a point;

THENCE S65°51'51"E, 99.63 feet to a granite bound on the westerly sideline of Jane Street;

THENCE Northwesterly, 37.35 feet along Jane Street cul-de-sac being a non-tangent curve to the right having a radius of 56.00 feet to the point of beginning. Said Parcel D contains 910 square feet of land more or less. Said Parcel D is also shown on a plan of land entitled Noble Oak Estates, Definitive Subdivision of Land in Shrewsbury, Massachusetts, dated October 29, 1999, recorded at Plan Book 760, Page 72.

This instrument does not create any new boundaries.

This conveyance does not constitute all or substantially all of the assets of the Grantor. Said Parcel D being a portion of the premises conveyed to Grantor by deed recorded with the Worcester District Registry of Deeds at Book 23231, Page 115. For Certificate of Vote of Franklin Farms, G.P., Inc., see Book 23831, Page 025.

Parcel E

A certain parcel of land situated in the Town of Shrewsbury, Worcester County, Massachusetts, being shown as "Parcel E," on a plan of land entitled "Owner: Town of Shrewsbury, Street Acceptance Plan of Jane Street in Shrewsbury, MA.; Scale: 1"=40'; Dated July 25, 2005; prepared by GCG Associates, Inc., Wilmington, MA.; Plan No. 2 of 2," and recorded with the Worcester District Registry of Deeds in Plan Book _____, Plan _____ and being more particularly described as follows:

BEGINNING at a granite bound on the most westerly portion of Parcel E on the northeasterly sideline of the Adams Road right of way;

THENCE S62°29'46"E, 36.90 feet along said sideline of Adams Road to a granite bound being a point of curvature;

THENCE Southeasterly and northeasterly, 30.31 feet along a curve to the left having a radius of 20.00 feet to an iron rod;

THENCE N30°39'58"E, 8.17 feet to a drill hole;

THENCE N17°42'52"W, 56.42 feet along a stonewall to an iron pipe at most northerly portion of Parcel E;

THENCE S72°17'08"W, 25.00 feet to a concrete bound;

THENCE S27°30'14"W, 49.06 feet to the point of beginning; Said Parcel E contains 2,805 square feet of land, more or less. Said Parcel E is also shown on a plan of land entitled Noble Oak Estates, Definitive Subdivision of Land in Shrewsbury, Massachusetts, dated October 29, 1999, recorded at Plan Book 760, Page 72.

This instrument does not create any new boundaries

This conveyance does not constitute all or substantially all of the assets of the Grantor.

Said Parcel E being a portion of the premises conveyed to Grantor by deed recorded with the Worcester District Registry of Deeds at Book 23231, Page 115. For Certificate of Vote of Franklin Farms, G.P., Inc., see Book 23831, Page 025.

Planning Board report unanimously recommending acceptance was read by moderator

***Article 15: Sewer Easement
Grafton Street**

VOTED UNANIMOUSLY a motion to accept a sewer easement along Route 140 Grafton Street in the vicinity of 29 Grafton Circle as shown on a plan entitled 'Easement Plan for MJ & KJ Realty LLC" drawn by Jarvis Land Survey, Inc., dated 08/07/06 and being more particularly described as follows:

Beginning at a point at the northwesterly corner of the easement on the easterly side of Grafton Circle.

THENCE N 82°07'15" E, a distance of 21.77' to a point;

THENCE S 31°07'35" E, a distance of 171.70' to a point;

THENCE a curve to the right with a radius of 1,060.06', a distance of 761.26' to a point;

THENCE S 10°01'10" W, a distance of 56.52' to a point;

THENCE a curve to the left with a radius of 5,060.00', a distance of 20.05' to a point; on the easterly side of Grafton Circle.

THENCE N 10°01'10" E, by Grafton Circle a distance of 57.94' to a point;

THENCE a curve to the left with a radius of 1,040.06', a distance of 746.90' by Grafton Circle to a point;

THENCE N 31°07'35" W, a distance of 180.29' by Grafton Circle to the POINT OF BEGINNING;

CONTAINING 19,746 Sq. Ft. more or less

***Article 17: Accept MGL Chapter 40, Section 22F**

VOTED a motion to accept the provisions of Chapter 40, Section 22F of the Massachusetts General Laws which deal with the setting of fees and charges.

***Article 18: Bus Contract
School Department**

VOTED UNANIMOUSLY a motion pursuant to General Laws Chapter 30B, Section 12, to authorize the School Department to issue contracts for a period of up to five (5) years for busing and pupil transportation services.

***Article 19: Stormwater Management By-Law**

VOTED a motion to amend the General By-Laws by adding the following new Article:

**ARTICLE 21
Stormwater Management By-Law**

Section 1. Purpose.

A. The purposes of this Stormwater Management By-law are, among other purposes, to safeguard the public health, safety and welfare; to improve stream health and environmental conditions; to protect the Town of Shrewsbury's water bodies and groundwater from further negative impacts of stormwater runoff; to reduce contamination of stormwater runoff; to protect aquatic and wildlife habitat; to comply with federal and State regulatory mandates of the National Pollutant Discharge Elimination System Program; and to reduce flooding. The following conditions have been identified as contributors to the challenges of stormwater management.

1. Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.
2. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.
3. Regulation of discharges to the municipal separate storm sewer system (MS4) is necessary for the protection of the Town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated stormwater runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater.

In particular, land disturbances can cause harmful impacts due to:

- (a) Soil erosion and sedimentation.

- (b) Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater.
- (c) Contamination of drinking water supplies.
- (d) Erosion of stream channels.
- (e) Alteration or destruction of aquatic and wildlife habitat.
- (f) Flooding.
- (g) Overloading or clogging of municipal catch basins and municipal storm drain systems.

B. Therefore, this Article 21 establishes stormwater management standards for the final conditions that result from development and redevelopment projects to minimize adverse impacts offsite and downstream which would be born by abutters, townspeople, and the general public. The objectives of Article 21 are as follows:

1. To prevent pollutants from entering the Town's municipal separate storm sewer system (MS4) and to minimize discharge of pollutants from the MS4.
2. To prohibit illicit connections and unauthorized discharges to the MS4.
3. To require the removal of all such illicit connections.
4. To comply with state and federal statutes and regulations relating to stormwater discharges.
5. To establish the legal authority to ensure compliance with the provisions of Article 21 through inspection, monitoring, and enforcement.
6. To require practices to control the flow of stormwater from new and redeveloped sites into the Town's municipal storm drain system in order to prevent flooding and erosion.
7. To protect groundwater and surface water from degradation and promote groundwater recharge and infiltration.
8. To ensure adequate long-term operation and maintenance of structural stormwater best management practices (BMPs) so that they work as designed.
9. To require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbances.
10. To ensure that soil erosion and sediment control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained.

11. To require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality.
12. To establish the Town's legal authority to ensure compliance with the provisions of Article 21 through inspection, monitoring, and enforcement.

Section 2. Definitions.

For the purposes of this By-Law, the following shall mean:

ABUTTER – The owner(s) of land abutting the activity

ALTERATION OF DRAINAGE CHARACTERISTICS – Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT – Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth of Massachusetts or the Federal government to the extent permitted by law requesting a Stormwater Management Permit for proposed land disturbances.

APPLICANT'S TECHNICAL REPRESENTATIVE – a Registered Professional Engineer (P.E.) hired by the applicant to certify that design and construction are completed in accordance with the applicable local, state, and federal stormwater requirements.

AUTHORIZED ENFORCEMENT AGENCY – The Board of Sewer Commissioners (hereinafter the Board), its employees, officers, or agents designated to enforce Article 21.

BEST MANAGEMENT PRACTICE (BMP) – An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

BY-LAW – Refers to Article 21, Stormwater Management Bylaw of the “General By-Laws of the Town of Shrewsbury”.

CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC) – An individual who holds a current certification from the Soil and Water Conservation Society in cooperation with the American Society of Agronomy.

CLEAN WATER ACT – The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

CLEARING – Any activity that removes the vegetative surface cover.

DEVELOPMENT – The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISCHARGE OF POLLUTANTS – The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth of Massachusetts from any source.

EROSION – The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENT CONTROL PLAN – A document containing narrative, drawings, and details developed by a Registered Professional Engineer (P.E.) or a Certified Professional in Erosion and Sediment Control (CPESC), which includes BMPs, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbances. The plan is required as part of the application for a Stormwater Management Permit.

GRADING - Changing the level or shape of the ground surface.

GROUNDWATER – Water beneath the surface of the ground.

ILLICIT CONNECTION – A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

ILLICIT DISCHARGE – Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 9. The term does not include a discharge in compliance with a NPDES Stormwater Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 9.

IMPERVIOUS SURFACE - Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

LAND DISTURBANCE – Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY – The Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 § 40 and Massachusetts Clean Waters Act G.L. c. 21, § 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM – The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm

drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drain system owned or operated by the Town.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT – A permit issued by United States Environmental Protection Agency or jointly with the Commonwealth that authorizes the discharge of pollutants to waters of the United States.

NON-STORMWATER DISCHARGE – Discharge to the municipal storm drain system not composed entirely of stormwater.

OWNER – A person with a legal or equitable interest in property.

PERSON – An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE – Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

POLLUTANT – Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth of Massachusetts. Pollutants shall include without limitation:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Non-hazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes; sewage, fecal coliform and pathogens;
- G. Dissolved and particulate metals;
- H. Animal wastes;
- I. Rock, sand, salt, soils;
- J. Construction wastes and residues; and

K. Noxious or offensive matter of any kind.

PRE-CONSTRUCTION – All activity in preparation for construction.

PROCESS WASTEWATER – Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

RECHARGE – The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

REDEVELOPMENT – Development, rehabilitation, expansion, demolition, or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

RESIDENTIAL PROPERTY OWNER – An owner that has established primary residency in a single family residential property.

RUNOFF – Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT – Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION – The process or act of deposition of sediment.

SITE – Any lot or parcel of land or area of property where land disturbances are, were, or will be performed.

SOIL – Any earth, sand, rock, gravel, or similar material.

STORMWATER – Stormwater runoff, snowmelt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT PLAN – A plan required as part of the application for a Stormwater Management Permit.

STORMWATER UTILITY – A special assessment district set up to generate funding specifically for stormwater management. Users within the district pay a stormwater fee and the revenue generated directly supports operation, maintenance, and upgrade or expansion of existing storm drain systems; development of drainage studies, plans, flood control measures, and water-quality programs; administrative costs; and construction of capital improvement projects, and purchase of all equipment necessary for the installation, operation and maintenance of the system.

STREAM – A body of running water, including brooks, creeks, and other water courses, which moves in a definite channel in the ground due to a hydraulic gradient. A portion of a stream may flow through a culvert, is naturally obscured, or beneath a bridge. A stream's flow may be intermittent (i.e., does not flow throughout the year), or perennial.

SURFACE WATER DISCHARGE PERMIT – A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

TOXIC OR HAZARDOUS MATERIAL OR WASTE – Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

WASTEWATER – Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

WATERCOURSE – A natural or man-made channel through which water or a stream of water flows, including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH OF MASSACHUSETTS – All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

WETLANDS – Coastal and freshwater wetlands, including wet meadows, marshes, swamps, and bogs, as defined and determined pursuant to G.L. c 131, § 40 and 310 CMR 10.00 et seq.

Section 3. Applicability.

Article 21 shall apply to flows entering the municipal storm drain system and construction activities that result in a land disturbance equal to or greater than one acre of land or will disturb less than one acre of land but is part of a larger common plan of development. The activities prohibited from the municipal storm drain system are illicit discharge, illicit connection, and obstruction. Section 8 further identifies the prohibited activities.

No person may undertake a construction activity, including clearing, grading, and excavation that results in a land disturbance that will disturb equal to or greater than one acre of land or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one acre of land draining to the Town MS4 without a Stormwater Management Permit from the Board. The method for obtaining a Stormwater Management Permit shall be published in the rules and regulations.

After the initial common plan construction activity is completed for a particular parcel, any subsequent development or redevelopment of that parcel would be regarded as a new plan of development. For example, after a house is built and occupied, any future construction on that lot (e.g., reconstructing after fire, adding a pool or parking area, etc.), would stand alone as a new common plan for purposes of calculating acreage disturbed to determine if a Stormwater

Management Permit is required. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or the original purpose of the site; unless it exceeds one acre of soil disturbance.

Section 4. Authority.

Article 21 is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

Nothing in this By-law is intended to replace the requirements of any other by-law that has been made or may be adopted by the Town of Shrewsbury.

Section 5. Responsibility for administration.

The Board of Sewer Commissioners (The Board) shall administer, implement and enforce Article 21, and any rules and regulations adopted thereunder. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to employees or agents of the Authorized Enforcement Agency.

Section 6. Administration.

- A. The Board shall administer, implement, and enforce Article 21. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to its employees and agents.
- B. Rules and Regulations. The Board may adopt, and periodically amend, rules and regulations relating to the procedures and administration of Article 21, by majority vote of the Board, after public notice and public hearing. Failure by the Board to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of Article 21.
- C. Stormwater Utility. The Board may adopt, through rules and regulations authorized by this Stormwater Management Bylaw, a Stormwater Utility pursuant to G.L. c.83, § 16 G.L. and c.40, § 1A. The Board shall administer, implement and enforce this Utility. Failure by the Board to promulgate such a Stormwater Utility through rules and regulations or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this By-Law.

Section 7. Rules, Regulations, Permits, and Procedures.

The Board may promulgate rules and regulations to effectuate the purposes of Article 21. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating Article 21.

Section 8. Prohibited activities.

- A. Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth of Massachusetts.
- B. Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal system without prior written approval from the Board.

Section 9. Exemptions.

The non-stormwater discharge activities exempted from Article 21 are as follows:

- A. Discharge or flow resulting from fire fighting activities.
- B. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
 - (1) Waterline flushing;
 - (2) Flow from potable water sources;
 - (3) Springs;
 - (4) Natural flow from riparian habitats and wetlands;
 - (5) Diverted stream flow;
 - (6) Rising groundwater;
 - (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005 (20), or uncontaminated pumped groundwater;
 - (8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
 - (9) Discharge from landscape irrigation or lawn watering;
 - (10) Water from individual residential car washing;
 - (11) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
 - (12) Discharge from street sweeping;

- (13) Dye testing, provided verbal notification is given to the Board prior to the time of the test;
- (14) Non-stormwater discharge permitted under a NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- (15) Discharge for which advanced written approval is received from the Board as necessary to protect public health, safety, welfare or the environment.

The construction and land disturbance activities exempted from Article 21 are as follows:

- (1) Construction activities waived from permit coverage under the NPDES General Permit for Stormwater Discharges from Construction Activities.
- (2) Normal maintenance and improvement of land in agricultural or aquacultural use as defined by the Wetlands Protection Act regulations 310 CMR 10.04;
- (3) Maintenance of existing landscaping, gardens or lawn area associated with a single family dwelling;
- (4) The construction of fencing that will not substantially alter existing terrain or drainage pattern;
- (5) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns;
- (6) As authorized in the Phase II Small MS4 General Permit for Massachusetts, stormwater discharges resulting from the activities identified in Section 9A that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Policy as reflected in an Order of Conditions issued by the Conservation Commission are exempt from compliance with Article 21.
- (7) Emergency work to protect life, limb, or property.

Section 10. Emergency suspension of municipal storm drain system access.

The Board may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

Section 11. Notification of spills.

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of material at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth of Massachusetts, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Fire and Police Departments, Board of Health, and the Board of Sewer Commissioners. In the event of a release of non-hazardous material, the reporting person shall notify the Board no later than the next business day. The reporting person shall provide to the Board written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Section 12. Fee structure.

Fee Structure. The Board shall obtain with each submission an Application and Review Fee fixed by the Board or its designated agent to cover expenses connected with the application review of the Stormwater Management Permit. Authority for the Board is granted pursuant to G.L. c.40, § 22F and adopted by the Town as part of a general bylaw, Article 17. The Applicant must hire a Registered Professional Engineer (P.E.) to certify that the plans are in accordance with the Town's standards. The Board is authorized to retain professional consultation from applicable Town Departments to advise the Board on any or all aspects of these plans. The Board may waive the requirement that plans must be prepared by a P.E.

Section 13. Waivers.

- A. The Board may waive strict compliance with any requirement of Article 21 or the rules and regulations promulgated hereunder, where:
 - (1) Such action is allowed by federal, state and local statutes and/or regulations,
 - (2) Is in the public interest, and
 - (3) Is not inconsistent with the purpose and intent of Article 21.
- B. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of Article 21 does not further the purposes or objectives of Article 21.
- C. All waiver requests shall be reviewed by the Board and if necessary, discussed with other Town departments. The waiver requests shall be discussed and voted on at the public hearing for the project.
- D. If in the Enforcement Officer's opinion, additional time or information is required for review of a waiver request, the Board may continue a hearing to a date certain announced at

the meeting. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

Section 14. Surety.

The Board may require the permittee to post before the start of land disturbance activity or construction activity, a surety bond, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the Board to ensure that the work will be completed in accordance with the permit. If the project is phased, the Board may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Board has received the final report as required by Section 15 and issued a certificate of completion.

Section 15. Final Reports.

Upon completion of the work, the permittee shall submit a report, as outlined in the rules and regulations, from a Professional Engineer (P.E.) or Certified Professional in Erosion and Sediment Control (CPESC), as appropriate. The report shall certify that all erosion and sediment control devices and approved changes and modifications have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

Section 16. Certificate of Completion

The Board will issue a letter certifying completion upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with the Stormwater Management Permit.

Section 17. Enforcement.

The Board of Sewer Commissioners or an authorized agent of the Board shall enforce Article 21, regulations, orders, violation notices, and enforcement orders and may pursue all civil and criminal remedies for such violations.

A. Civil Relief. If a person violates the provisions of Article 21, regulations, permit, notice, or order issued thereunder, the Board may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

B. Orders.

(1) The Board or an authorized agent of the Board may issue a written order to enforce the provisions of Article 21 or the regulations thereunder, which may include:

(a) Elimination of illicit connections or discharges to the MS4.

(b) Performance of monitoring, analyses, and reporting.

(c) That unlawful discharges, practices, or operations shall cease and desist.

- (d) Remediation of contamination in connection therewith.
 - (e) Cease and desist from construction or land disturbance until there is compliance with Article 21, and an approved Stormwater Management Permit and provisions thereof.
 - (f) Repair, maintain; or replace the stormwater management system or portions thereof in accordance with the Stormwater Management Permit and provisions thereof.
 - (g) Remediate adverse impact resulting directly or indirectly from malfunction of the stormwater management system, including erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.
- (2) If the Board determines that abatement or remediation of adverse impacts and/or contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and the owner shall reimburse the Town's expenses.
- (3) Within thirty (30) days after completion by the Town of all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, 57 after the thirty-first day at which the costs first become due.
- C. Criminal Penalty. Any person who violates any provision of Article 21, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$200. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the Non-criminal disposition procedure set forth in G.L. Ch. 40, § 21D and adopted by the Town as Article 17 of the General By-Laws in which case the Board shall be the enforcing person. As part of the rules and regulations referenced in Section 7 of this By-Law, the Board may establish penalties for violations.
- E. Entry to Perform Duties Under Article 21. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Authorized Enforcement Agency, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Board deems reasonably necessary.

- F. Appeals. The decisions or orders of the Board shall be final. Further relief shall be to a court of competent jurisdiction.
- G. Remedies Not Exclusive. The remedies listed in Article 21 are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 18. Severability.

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence or clause, of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this By-Law.

Section 19. Transitional provisions.

Residential property owners shall have 90 days from the effective date of Article 21 to comply with its provisions provided good cause is shown for the failure to comply with Article 21 during that period.

Article 20: Construct Surface Drains

DEFEATED a substitute motion to authorize the Selectmen to construct storm drains in public ways and to acquire by eminent domain or otherwise all such easements as may be necessary or appropriate in connection therewith, and the sum of \$1.00 be raised and appropriated to pay for such easements and the construction of such drains including engineering and other expenses incidental thereto.

Board of Selectmen recommend defeat of article
Finance Committee recommend defeat of article

***Article 21: Sidewalks and Curbing**

VOTED UNANIMOUSLY a motion to authorize the Selectmen to construct, reconstruct, repair and maintain sidewalks and curbing and to acquire by eminent domain or otherwise all such easements as may be necessary or appropriate in connection therewith, and the sum of \$25,000 be raised and appropriated to pay for such easements and the construction of such drains including engineering and other expenses incidental thereto.

***Article 22: Improve Sewer System**

VOTED UNANIMOUSLY a motion to transfer the sum of \$300,000.00 from the Sewer Surplus Account for laying out and constructing a system of main drains, common sewers, sub-drains, connections and other work as may be required for a system of sewerage, including acquiring all land or easements which may be necessary in connection therewith which may be authorized by Chapter 502 of the acts of 1954 as amended.

***Article 23: Water System Improvements**

VOTED UNANIMOUSLY a motion to raise the sum of \$500,000.00 to fund general water system improvements along Hartford Turnpike (Rte 20) included related water mains, hydrants, services, connections and appurtenances and all associated professional and engineering expenses and costs associated with acquiring land or easements which may be necessary for such water system improvements.

***Article 24: General Water System Improvements
 Grafton St**

VOTED UNANIMOUSLY a motion to transfer the sum of \$200,000.00 from Account 01-0450-10-585450 Boston Turnpike Water Extension Account to fund general water system improvements along Grafton Street from the Town Center to Rte 9 including related water mains, hydrants, services, connections and appurtenances and all associated professional and engineering expenses and costs associated with acquiring land or easements which may be necessary for such water system improvements.

***Article 25: Water System Improvement Account**

VOTED UNANIMOUSLY a motion to raise the sum of \$110,000.00 to be added to the Water System Improvements Account for the improvement of the water system including extension, relocation and relaying of water mains and replacement or improvement of water system appurtenances, buildings and equipment and authorize the Board of Selectmen to acquire land or easements in connection therewith.

***Article 26: Donahue Rowing Center
 Revolving Fund**

VOTED UNANIMOUSLY a substitute motion to establish under the provisions of Chapter 44, Section 53E _ of the General Laws for the operation and maintenance of the Donahue Rowing Center. All receipts for the use of this facility and those received by the Town during prior fiscal years shall be credited to the fund. Expenditures shall be made by the Park and Cemetery Commission upon approval by the Town Manager. Expenditures for Fiscal 2008 shall not exceed \$200,000.00.

***Article 27: Council on Aging Bus
 Revolving Fund**

VOTED a substitute motion to establish a revolving fund under the provisions of Chapter 44, Section 53E _ of the General Laws for the operation and maintenance of the bus operated by the Council on Aging. All receipts paid to the Council on Aging by users of the bus and those received by the Town during prior fiscal years shall be credited to the fund. Expenditures shall be made by the Council on Aging upon approval by the Town Manager. Expenditures for Fiscal 2008 shall not exceed \$75,000.00.

***Article 28: Landfill Capping Grant
Repay Comm. of Mass.**

VOTED a motion to transfer the sum of \$105,000.00 from the Coal Ash Reserve Account to repay to the Commonwealth of Massachusetts a landfill capping grant received by the Town in 1995.

***Article 29: Counseling and Educational Services**

VOTED UNANIMOUSLY a motion to raise the sum of \$72,000.00 for counseling and educational services to families.

***Article 30: Accept Sum of Money from CATV**

VOTED UNANIMOUSLY a motion to accept a sum of \$492,491.00 from the Municipal Light Department CATV division and appropriate said sum to the use of the Board of Assessors in fixing the tax rate for Fiscal Year 2008.

***Article 31: Municipal Light Department
In Lieu of Taxes**

VOTED UNANIMOUSLY a motion to accept a sum of \$189,358.00 from the Municipal Light Department in lieu of taxes, and appropriate said sum to the use of the Board of Assessors in fixing the tax rate for Fiscal Year 2008.

***Article 32: Transfer Funds to Board of Assessors**

VOTED UNANIMOUSLY a motion to transfer the sum of \$500,000.00 from Free Cash and appropriate said sum to the use of the Board of Assessors in fixing the tax rate for Fiscal Year 2008.

VOTED a motion to adjourn at 9:04 P.M.

ATTEST:

Ann M. Dagle
Town Clerk

